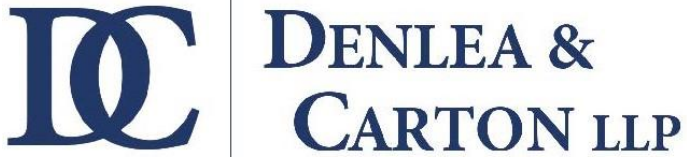


**Exhibit D**

**Friesen Letter Dated**

**October 21, 2024**



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October 21, 2024

**VIA ECF**

The Honorable Frank P. Geraci  
United States District Court  
Western District of New York  
100 State Street,  
Rochester, New York 14614

Re: Charlene Morris v. Pim Brands, Inc. Case No. 6:24-cv-6385 (FPG)

Dear Judge Geraci:

We represent Plaintiff in the above-captioned action. We write to advise the Court that, following review of Defendant's motion to dismiss pursuant to Federal Rule 12(b)(6) and having learned of a recent decision in the Southern District of California addressing related preemption issues (decided after Defendant filed its motion to dismiss), we believe that amending certain portions of the Amended Complaint will obviate the issues raised in Defendant's motion.

Plaintiff previously amended the Complaint at the request of Defendant to name the proper party, thereby using her one amendment "as a matter of course" pursuant to Rule 15(a)(1) of the Federal Rules of Civil Procedure, so that avenue – which Plaintiff would ordinarily take at this juncture – is unavailable to her. Unfortunately, although this case is in the very early stages of litigation and no Rule 16 scheduling conference has yet been conducted or Rule 16 scheduling order issued, we have been unable to obtain Defendant's consent to file a Second Amended Complaint pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure.


Accordingly, we intend to file a motion pursuant to Rule 15(a)(2) and Local Rule 15 for leave to file a Second Amended Complaint which the Court should "freely give." Rule 15(a)(2). In light of the fact that the filing of the Second Amended Complaint will moot the pending motion to dismiss the Amended Complaint, the opposition to which is currently due October 24, 2024, it is respectfully requested that the Court permit us until **November 15, 2024**, to file the motion with the proposed amended pleading and mark the current motion as terminated.

Hon. Frank P. Geraci  
October 21, 2024  
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The Court's attention to this matter is greatly appreciated.

Respectfully submitted,

DENLEA & CARTON LLP

By:   
Catherine H. Friesen

Cc: All counsel (via ECF)